

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF TEXAS
SAN ANTONIO DIVISION

RESEA PROJECTS APS
Plaintiff,

v.

RESTORING INTEGRITY TO THE
OCEANS, INC. AND KIERAN KELLY
Defendant.

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CAUSE NO. 5:21-CV-1132-JKP

DEFENDANTS' REQUESTS FOR ADMISSION TO PLAINTIFF

TO: Plaintiff, ReSea Projects APS, by and through their counsel of record, Marc D. Katz, DLA Piper, LLP (US), 1900 N. Pearl Street, Suite 2200, Dallas, Texas 75201 and Allissa A.R. Pollard, 1000 Louisiana Street, Suite 2800, Houston, Texas 77002

Defendant, Restoring Integrity to the Oceans, Inc. serves this, its First Set of Requests for Admission to Plaintiff, ReSea Projects APS, pursuant to the Federal Rules of Civil Procedure. Plaintiff shall serve written responses pursuant to the deadlines of the Federal Rules of Civil Procedure or by Order of the Court.

Respectfully submitted,

Joseph Hoelscher

State Bar No. 24042972

joe@hgclaw.com

HOELSCHER GEBBIA CEPEDA, PLLC

3030 Nacogdoches Road, Suite 222G

San Antonio, Texas 78217

Phone: 210-222-9132

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Lead Counsel for Defendants

and

/s/ Joseph E. Cuellar

Joseph E. Cuellar

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ATTORNEYS AT LAW, P.C.**

Callaghan Tower

8023 Vantage Drive, Suite 700

San Antonio, Texas 78230

Phone: 210-598-8686

Fax: 210-598-8797

Counsel for Defendants

CERTIFICATE OF SERVICE

I do hereby certify that the foregoing instrument was served on the following counsel this
24th day of January 2022, pursuant to Rule 5 of the Federal Rules of Civil Procedure, via the email:

Marc D. Katz
DLA Piper, LLP (US)
1900 N. Pearl Street, Suite 2200
Dallas, Texas 75201
Marc.Katz@us.dlapiper.com

&

Allissa A.R. Pollard
1000 Louisiana Street, Suite 2800
Houston, Texas 77002
Mark.Waite@dlapiper.com
Counsel for Plaintiffs

/s/ Joseph E. Cuellar

Joseph E. Cuellar

INSTRUCTIONS AND DEFINITIONS

1. “You” or “Your,” means Plaintiff ReSea Project all representatives acting (or who acted) or purporting to act (or who purported to act) on its behalf, including but not limited to, all employees, contractors, consultants, agents, , or any other representatives, with respect to any matter inquired about in these requests.
2. “Defendants” means Restore Integrity to the Oceans and Kieran Kelly, and include all representatives, employees, agents, or officers acting or purporting to act on its behalf with respect to any matter inquired about in these requests.
3. “Person” or “persons” shall mean any natural person or any business, legal or governmental entity or association.
4. “Describe” shall mean to describe specifically and in detail.
5. “Identify” or “identity of” when referring:
 - (a) to a person, means to state his or her full name and present or last known business or residential street address, city, state and telephone number.
 - (b) to a public or private corporation, partnership, association, or other organization, or to a governmental agency means to state its full name and present or last known pertinent business street address, city, state and telephone number.
 - (c) to a statement, means to identify who made it, who took or recorded it, and all others, if any, present during the making thereof; to state when, where, and how it was taken or recorded, and to identify who has present or last known possession, custody or control thereof;
 - (d) to a document, means to give a reasonably detailed description thereof, including, if applicable, when, where, and how it was made; to identify who made it; and to identify who has present or last known possession, custody or control thereof; and
 - (e) to any other tangible thing, means to give a reasonably detailed description thereof, including, if applicable, when, where, and how it was made; to identify who made it; and to identify who has present or last known possession, custody or control thereof.
6. (a) “Document” or “documents” is intended to be comprehensive and shall mean every original (or an identical copy if the original is unavailable), and every copy which differs in any way from the original, of every writing, or other tangible expression, whether handwritten, typed, drawn, sketched, printed, or recorded by any physical, mechanical, electronic, or electrical means whatsoever, and shall be construed to the fullest extent of the Texas Rules of Civil Procedure, and shall include, without limitation:
 - (1) Any agreement, personnel record, personnel file or portion thereof, letter, report, record, list, summary, memorandum, note, study, chart, analysis, graph, data sheet, statistical record, notebook, diary, drawing, blueprint, diagram, photograph, form, book, telegram, publication, newspaper clipping, advertisement, manager’s report, management report, activity report, incident report, and all other writing of any kind or character whatsoever, including drafts and copies of the foregoing, as well as all reproductions or other facsimiles thereof by whatever means made, and

all copies which are not identical for any reason, including but not limited to any marking, note or modification.

(b) "Photographic/Videographic Media" is intended to include and shall mean every original (or an identical copy if the original is unavailable), and every copy which differs in any way from the original, of every photograph (whether digital, analog, or created through traditional means utilizing film or celluloid), and any videotape, movie or motion picture, or "DVD."

You are requested, pursuant to Rule 196.4, T.R.C.P., to produce these items in a form which is reasonably accessible to the Requesting Party.

(c) "Electronic/Magnetic Media" is intended to include and shall mean every original (or an identical copy if the original is unavailable), and every copy which differs in any way from the original, of computer-generated and/or computer-stored information of every image, picture, text, text message, email, spreadsheet, application, program, operating system, browser, or other computer generated work product. This includes information stored on CD-ROM disks, DVD disks, floppy disks, optical disks, hard drives, and any other storage medium used by "you." You are requested, pursuant to Rule 196.4, T.R.C.P., to produce these items in printed format, or in a form which is reasonably accessible to the Requesting Party.

(d) "Sound Recording" is intended to include and shall mean every original (or an identical copy if the original is unavailable), and every copy which differs in any way from the original, of every tape recording, mechanical recording, digital or analog recording, which captures sound. You are requested, pursuant to Rule 196.4, T.R.C.P., to produce these items in a form which is reasonably accessible to the Requesting Party.

7. The term "health care professional and/or institution" shall mean any physician, doctor, nurse, pharmacist, physical therapist, practitioner of the healing arts, psychiatrist, psychologist, dietician, nutritionist, counselor, pharmacy, spiritual, medical clinic, other health care provider or any other person or institution holding himself, herself, or itself out to be capable of the diagnosis and/or treatment of physical, psychological, emotional or mental injuries.

8. "Statement" includes any written or graphic statement signed or otherwise adopted or provided by the person making it, and any stenographic, mechanical, electrical, or other record of transcription thereof.

9. The terms "relating to" and "related to" shall mean, without limitation, containing, comprising, constituting, stating, setting forth, recording, describing, discussing, reflecting, interpreting, identifying, concerning, referring to, evidencing, confirming, supporting, contradicting, controverting, or in any way pertaining to, in whole or in part, that subject to which it refers or that contention to which it refers.

10. The terms "state" shall mean to state specifically and in detail.

11. "And" and "or" shall be construed conjunctively and disjunctively to mean either "and" or "or," whichever shall be the most inclusive in the context in which it is used.

12. The terms "each" shall include the word "every" and "every" shall include the word "each." "Any" shall include the word "all" and "all" shall include the word "any."

13. The use of the singular form of any word includes the plural, and vice versa. The use of the masculine gender includes the feminine, and vice versa.

REQUESTS FOR ADMISSION

1. Admit that you rely on waste banks to either recycle or otherwise dispose of the plastic waste collected for or by you.
2. Admit that only some of the plastic waste collected for or by you is recycled.
3. Admit that some the plastic waste collected for you or by you that is not recycled is incinerated.
4. Admit that more than 50% of the plastic waste collected for you or by you that is deposited at waste banks is incinerated.
5. Admit that more than 25% of the plastic waste collected for you or by you that is deposited at the waste banks is incinerated.
6. Admit that you have not lost any customers since Defendant's first public posting or statement.
7. Admit that Klaus Hein Andersen participated in a telephone call with Kieran Kelly and Ann Sofie Gade.
8. Admit that from January 1, 2021 to November 2021, ReSea had only local contractors and agent present in Indonesia.
9. Admit that RIO and/or Kieran Kelly did not illegally obtain ReSea's collected plastic waste.
10. Admit that ReSea does not compete with Defendants for the plastic waste in the oceans around Indonesia.
11. Admit that ReSea does not compete with Defendants for customers to purchase waste plastic credits or offsets.
12. Admit that ReSea intends to seek additional recovery in any other jurisdiction for the same acts or communications that are the subject of this litigation.

13. Admit environmental activists have a duty to verify the integrity of their projects, including any reasonably foreseeable potential collateral harms those projects may cause to the environment.
14. Admit transparency is necessary to advance the purposes of environmental initiatives such as ocean cleanup.
15. Admit environmental activists have a duty to hold polluters accountable through public discourse.

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DEFENDANTS' INTERROGATORIES TO PLAINTIFF

TO: Plaintiff, ReSea Projects APS, by and through their counsel of record, Marc D. Katz, DLA Piper, LLP (US), 1900 N. Pearl Street, Suite 2200, Dallas, Texas 75201 and Allissa A.R. Pollard, 1000 Louisiana Street, Suite 2800, Houston, Texas 77002

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Respectfully submitted,

Joseph Hoelscher

State Bar No. 24042972

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Christopher M. Karl

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INTERROGATORIES

1. Please identify by name and provide the most recent contact information for each of your agents or contractors in Indonesia who organize the collection of plastic waste for you. This interrogatory does not include each individual who actually, physically collect the waste, but who, generally, coordinate the collection, or otherwise manage the process of waste from collection to delivery at the waste banks.
2. Please describe, generally, each link in the chain of custody of your “Traceability” model¹ and how you are able to verify this traceability. For this interrogatory, Defendants seek more information than is present on the referenced website. In particular, this request seeks information on how you maintain this “Traceability” on plastic collected in Indonesia once it is delivered to a waste bank?
3. Please explain how you verify the composition of the contents of your bags of plastic waste.
4. Please identify each of the waste banks or warehouses you deliver your collected plastic waste to. Please include in your response, the physical address of the location and the name of the owner or manager(s) of the facilities.
5. Please explain to the best of your ability, how Febri Heryanto, PT Daur, or any individual affiliated with either came into possession of bags of plastic tagged by ReSea.
6. Describe your relationship with PT Daur and Febri Heryanto.
7. Please identify who you sold your bags of waste plastic that are in RIO’s possession to.
8. Please identify and describe with specificity, including alleged dollar amounts, the damage you allege to have sustained due to the Defendants’ conduct.
9. Please identify each customer, investor, or business partner whose business you contend you have lost or failed to obtain either entirely or in part due to the allegations or conduct of Defendants.
10. Identify every ReSea employee or agent involved in the investigation into Defendant’s claims.

¹ As definition, please refer to your website here <https://www.reseaproject.com/certification>.

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DEFENDANTS' FIRST REQUESTS FOR PRODUCTION TO PLAINTIFF

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13. The use of the singular form of any word includes the plural, and vice versa. The use of the masculine gender includes the feminine, and vice versa.

REQUEST FOR PRODUCTION

1. Produce any investigative reports related to the claims and allegations made the basis of this lawsuit. This request includes by is not limited to audit reports produced by you or DNV.
2. Produce all correspondence, including texts, emails, letters, messages through messaging apps, etc. between you and any employee or agent of RIO.
3. Produce all correspondence, including texts, emails, letters, messages through messaging apps, etc. between you and any employee or agent of DNV regarding the claims and allegations made the basis of this lawsuit.
4. Produce all correspondence, including texts, emails, letters, messages through messaging apps, etc. between you and Febri Heryanto or any other agent or employee of PT Daur.
5. Produce all correspondence, including texts, emails, letters, messages through messaging apps, etc. between you and any employee or agent of the persons or entities identified in answer to Interrogatory No. 4.
6. Produce any agreements, memoranda of understanding, contracts, or other written agreements between you and any waste banks you use in Indonesia.
7. Produce all correspondence, including texts, emails, letters, messages through messaging apps, etc. between you and any employee or agent of the persons or entities identified in answer to Interrogatory No. 9.
8. Produce any agreements, memoranda of understanding, contracts, or other written agreements between you and the persons or entities identified in answer to Interrogatory No. 9.
9. Produce any agreements, memoranda of understanding, contracts, or other written agreements between you and DNV.
10. Produce all ledgers, spreadsheets, invoices, bills, receipts, or proof of payment reflecting your deposits of waste plastic at waste banks in Indonesia for the calendar year 2021.

11. Produce financial records that reflect your expended costs in Indonesia and your income from the sale of credits or offsets from the waste plastic collected in Indonesia for the period from April 1, 2021 to August 31,2021. This request specifically includes balance sheets, income statements, and cash flow statements.